

R E M A R K S

Claims 1 - 15 are pending in the present application.

Claims 1, 13, 14 and 15 are independent.

Section 103(a) Rejections

All claims stand rejected as being unpatentable over a combination of Montangero (US 6,035,279) and Sleeper (US 6,401,074). Certain dependent claims were rejected over a combination of Montangero, Sleeper and other references. Applicants respectfully traverse the Examiner's Section 103(a) rejection. There has been no *prima facie* showing that the claims are obvious.

No motivation to combine

The purported motivation to combine the references in the manner proposed is:

in order to provide automated checkout-processing system by using the well-known barcode symbology for identifying the product associated with the barcode therewith

This is generally an allegation that the modification would have been beneficial. However, a motivation to modify only exists where the prior art teaches such a benefit. No evidence has been provided that the prior art would in any way recognize the desirability of such a modification.

Claim Amendments

Notwithstanding the above argument that there is no motivation to combine, and thus no *prima facie* case of unpatentability of any claim, the claims have been amended in order to direct the claims to desirable embodiments. All independent claims now include the following limitations:

*determining an upsell offer based on at least one of the random outcomes
and based on at least one of the product identifiers; and
making the upsell offer.*

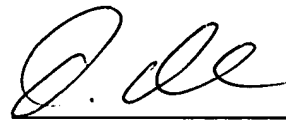
The references of record, either alone or in combination, fail to suggest such a limitation. Thus, the pending claims are patentable over the references of record.

Conclusion

For the foregoing reasons it is submitted that all of the claims are now in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Dean Alderucci at telephone number 203-461-7337 or via electronic mail at Alderucci@WalkerDigital.com.

Respectfully submitted,



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